

**DRAFT MEETING MINTUES**  
**Delta Protection Commission Meeting**  
**Thursday, March 28, 2002**

**1. Call to Order/Roll Call**

The meeting was called to order at 6:30 p.m. by Chairman Pat McCarty. Commissioners present were: Bedford, Brean, Calone, Coglianese, Curry, Curtis, Ferguson, Macaulay, Nottoli, Sanders, Shaffer, Thomson, van Loben Sels, Wilson, and Senator Machado. Commissioners absent were: Cabaldon, Glover, and McGowan.

**2. Public Comment.** There were no public comments.

**3. Minutes of the Last Meeting**

Commissioner Macaulay asked that the minutes be amended to reflect that the Commission would contact Pete Rabbon, General Manager of the Reclamation Board, to address flood issues associated with Liberty Island.

On a motion by Commissioner Wilson and a second by Commissioner Curry, amended minutes were approved by voice vote. Commissioners Brean and Thomson abstained.

**4. Chairman's Report**

Chairman McCarty noted Bob Gleason had left the Commission. On a motion by Commissioner Calone, and a second by Commission Thomson, a resolution of appreciation was approved.

Chairman McCarty announced the next meeting of the Commission would be held Thursday, May 23, 2002.

**5. Commissioner Comments/Announcements**

Commissioner Shaffer distributed information about the new "Buy California" program, a federal-state program to fund market promotion and development, and research and test management. A grant program is currently open and more information is available at [www.cdfa.ca.gov](http://www.cdfa.ca.gov).

**6. Attorney General's Report.** Marian Moe had no report.

**7. Executive Director's Report**

Margit Aramburu, Executive Director, reviewed the material in the mailing packets and distributed at the meeting. She said the Plan is being reprinted and will incorporate the new regulation language adopted and approved last year. She said the information requested regarding Liberty Island has not yet been received from Reclamation Board.

She said the Great Valley Center annual conference will be held May 8 and 9 in Sacramento.

Commissioner van Loben Sels asked for the price being paid for the water in the one year sale of water to CALFED environmental water account listed in the pending projects memo; Ms Aramburu agreed to research to price of purchased water.

#### **8. Consideration and Possible Action on Creation of a Resource Conservation and Development Council in the Delta**

Chairman McCarty said the Commission will consider and possibly appoint its Agriculture Committee as the Steering Committee to prepare an application to the Secretary of Agriculture to create and fund a RC&D program in the Delta.

Ms Aramburu reviewed the status of the process and the meetings held to date.

Commissioner Ferguson said the meetings in the five counties were very positive and said the program could open doors for agriculture and the entire Delta. He recommended that the Commission move forward with the application to create a new RC&D program.

Chairman McCarty asked for public comments.

M. L. Rasmussen, President, California Striped Bass Association, said his association has ideas about how to improve the environment and supported any steps that could be taken to improve aquatic habitat in the Delta and the fisheries of the Delta.

Chairman McCarty closed the public hearing and asked for Commission discussion.

Commissioner van Loben Sels said he supports the RC&D, stating the Delta needs a group to look at social and economic development. He said an RC&D could be aggressive about addressing change particularly as it impacts agriculture.

Commissioner Shaffer said he attended several of the outreach meetings and a Woodland meeting about ethanol production. He believes the RC&D could help timely ideas move forward.

Commissioner Curtis said there are many groups in the Delta, but the RC&D would be another mechanism to bring people together and move toward common goals. He said the scoping meetings were very positive and he supports the RC&D program.

On a motion by Commissioner Ferguson and a second by Commissioner Shaffer, the Commissioner agreed unanimously by voice vote to provide staff and oversight support leading to submission of an application for an RC&D district in the Delta in October 2002.

## **9. Consideration and Possible Adoption of Comments on SB 1854 (Machado), Proposed Legislation to Create a Delta Conservancy**

Chairman McCarty said the Commission will consider and possibly adopt comments on the proposed legislation to create a Delta Conservancy in the Resources Agency, with authority in the Legal Delta to acquire and manage public lands for recreation and wildlife protection; to coordinate acquisition with the CALFED program; to award grants to projects that assist farmers in integrating agriculture and habitat; to provide technical assistance to landowners and to provide grants to agencies and nonprofits to carry out these tasks. He noted the item had been moved up on the agenda.

Senator Machado said he considers the bill a work in progress and invited input from the Commission. He said the bill resulted from his participation on the Commission as an ex-officio member. He said the Commission was created as an oversight body for regional planning. He said his interest in creating a separate Conservancy is to protect the regulatory authority of the Commission; the new conservancy would implement the vision defined by the Commission. He said in the last few years changes to land use in the Delta have been generated by agencies and groups outside the Delta, largely without input from the Commission and without consideration of the Commission's Land Use Plan. There is general acknowledgement of the Delta's statewide value for agriculture, wildlife habitat, and recreation. The conservancy would support those values and address subsidence, levee maintenance and other key issues.

Senator Machado noted funds have been generated in several bond acts; much of those funds have been designated for Conservancies. There is no such entity in the Delta to receive bond funds. He said his idea is to create a different kind of conservancy unique to Delta needs. The proposed conservancy would focus on private-public partnerships to promote wildlife-friendly agriculture; innovative private land management; and wildlife habitat that maintains economic viability of private lands. He emphasized the need to coordinate the activity of State agencies acting within the Delta.

He emphasized his interest in further discussions on the issues in a collaborative effort. He said he is open to other ideas of how to address the identified problems, including amending the Commission's legislation to emphasize its conservancy-like responsibilities.

Commissioner van Loben Sels said the current bill language does not directly address preservation of agricultural land; Senator Machado said he would like the bill to address fostering of wildlife friendly agricultural practices.

Chairman McCarty opened the public hearing.

Chris Lee, Reclamation District 566, said there is general resistance to a new layer of government in the Delta. He suggested modifying the Commission's responsibilities rather than creating a new agency. He emphasized the need for local control over programs in the Delta.

Steve Mello, Walnut Grove, also expressed concern about a new layer of government; and described the community support for the Delta Protection Commission; emphasized the need for local control; suggested the Commission can do the tasks identified for the new conservancy. Senator Machado said the challenge is to preserve and separate the Commission's planning and regulatory functions from the proposed implementation functions of a Conservancy.

Mario Jacques, Stockton, also expressed concern about a new layer of government, especially if similar to the Coastal Conservancy, and expressed skepticism that the ideas described by Senator Machado would actually help Delta agriculture. Senator Machado described examples of economically viable commercial agricultural crops that would also

provide enhanced seasonal habitat for birds and waterfowl, crops that are deemed unfriendly to wildlife such as grapes that could incorporate new management practices, and crops that could help minimize subsidence on peat soil islands. He emphasized the difference between an agency that mandates certain practices and an agency that would provide technical and economic assistance to landowners.

Chairman McCarty closed the public hearing and asked for Commissioner comments.

Commissioner Coglianese said acquisition by a conservancy would require public notice under State law; the new Conservancy should address concerns about land acquisition with no management strategy or resources. She asked that the law be amended to clearly describe the relationship between the Commission and the new conservancy. She noted it

is very expensive to manage land.

Commissioner van Loben Sels suggested the membership more closely parallel that of the Commission and suggested the State agencies should be voting, not ex-officio members. He agreed that CALFED is lacking in accountability and is moving out of balance. He suggested the bill be amended to address the weaknesses of the Commission.

Commissioner Calone agreed with Commissioner van Loben Sels. He said the Commission needs more authority and suggested that be the goal of the bill.

Commissioner Shaffer asked if the proposed Resource Conservation and Development Council could address some of the tasks of a conservancy and asked if the conservancy could coordinate notice of land acquisitions. He suggested adding the concepts of agriculture-friendly wildlife habitat, such as buffers and the "good neighbor" concepts.

Commissioner Wilson suggested the Commission could perform many of the tasks assigned to the proposed conservancy if the Commission had additional funding and staff.

Commissioner Thomson said he does not support formation of another State agency in

the Delta. He suggested the tasks described by Senator Machado could be carried out by the Delta Protection Commission. He said the Solano County Board of Supervisors would likely take a position against creation of another State agency in the Delta.

Commissioner Curtis said the Department of Fish and Game has no position on the proposed legislation, and asked for more information about how the Delta Conservancy would work with the Commission.

Commissioner Nottoli thanked Senator Machado for his initiative and for laying out the work and ideas behind the proposed legislation. Commissioner Nottoli said he supports the concept of local control of Delta activities and programs. He asked for more time to prepare and submit comments, and asked for more information about how the Commission and the new conservancy would coordinate programs and actions.

Commissioner Macauley said the Department of Water Resources has no position on the bill, and added the bill is a good idea but needs local support. He agreed the bill would address needs of the Delta.

Commissioner Curry suggested any new commission or board have voting members that support recreation and recreational boating.

Commissioner Brean agreed with Commissioner Curry.

Chairman McCarty said the bill does not address the 11% of Primary Zone lands already in public or nonprofit ownership and there needs to be a moratorium on acquisition of land in the Primary Zone without an overall plan. He suggested the Commission and its Land Use Plan should serve as the "gatekeepers" of the Delta. He thanked Senator Machado for coming to the meeting to discuss his vision with the Commission and the community.

Senator Machado said he recognized the challenges the Commission has in regard to funding and staffing, and said he acknowledges the strong local participation and presence on the Commission. He believes a conservancy program could assist in implementation of local programs of interest to the Commission. He also noted the Commission's concerns about acquisitions in the Delta, and the Commission's interest in affecting management of property and projects in the Delta. He said the proposed legislation is a tool to assist in carrying out the Commission's mission. He thanked the Commission and the public for their input and asked for additional input as the legislation evolves.

Chairman McCarty asked staff to pass the comments from tonight's meeting to Senator Machado. He said the Commission would use its existing Committees to develop feedback to present to Senator Machado and his staff.

## **10. Report on CALFED Activities and Projects**

Dennis Majors, CALFED, presented an update on CALFED activities in the Delta including: Delta Ecosystem Restoration Implementation Plan, Liberty Island, In-Delta Surface Storage, Levee Program, Delta Recreation Development, Delta Regional Implementation Plan and the South Delta Improvements Plan. He addressed challenges to the CALFED budget associated with the general downturn in the State's economy. He said funds are being sought for preparation of a Delta Recreation Master Plan. He said he would report on the North Delta Improvements Project at the next Commission meeting.

## **11. Consideration and Possible Action on CALFED Management Group Memorandum of Understanding (MOU)**

Chairman McCarty said the Commission will consider and possibly approve the new MOU which outlines the role of the Management Group in the overall CALFED program. The Management Group consists of State and federal agency representatives who meet regularly to review staff progress on implementation of the CALFED program. The Commission's staff participates in the Management Group meetings, as well as the CALFED Policy Group meetings.

Ms Aramburu reviewed the history of the current CALFED Governance MOU and the creation of the new Bay Delta Public Advisory Committee. She said the Management Group MOU formalizes the role and actions of the agency representatives that meet regularly to review CALFED staff work and CALFED agency actions.

Commissioner Coglianese said the CALFED Committee had reviewed the proposed MOU and it is the consensus of the group that the Delta Protection Commission should continue to participate at all levels of CALFED governance.

Commissioner van Loben Sels asked for a list of the agency representatives and alternates.

Chairman McCarty asked for public comments; there were none.

On a motion by Commissioner Sanders and a second by Commissioner Coglianese, the motion was approved unanimously by voice vote.

## **12. Consideration and Possible Delegation of Responsibilities to the CALFED Committee to Comment on Ecosystem Restoration Projects Recommended for Funding in the 2002 Grant Cycle and other CALFED Projects.**

Chairman McCarty said the Commission will review and consider delegating commenting responsibility to the CALFED Committee. The grant processing cycle may preclude timely comments from the full Commission.

Ms Aramburu said both the PSP grant recommendations and the analysis of the Delta Wetlands In-Delta Storage project may be released in April. She suggested the CALFED Committee is prepared to discuss and prepare comments on those projects, or the Commission could schedule a special meeting in April.

Commissioner Coglianese said the CALFED Committee discussed this staff proposal and would prepare comments on behalf of the full Commission, if so directed.

On a motion by Commissioner Wilson, and a second by Commissioner van Loben Sels, the Commission voted unanimously by voice vote to direct the CALFED Committee to prepare comments to be reviewed by the Chairman and submitted to CALFED.

### **13. Consideration and Possible Adoption of Comments on SB 1653 (Costa), Proposed Legislation to Create a CALFED Governance Entity**

Chairman McCarty said the Commission will consider and possibly adopt comments on the proposed legislation to create a new CALFED governance entity.

Ms Aramburu reviewed the history of the Commission's review of legislation to create a CALFED governance entity, and noted the Commission did adopt and submit comments on Senator Machado's original CALFED governance proposal in 2000.

Brent Walthall, Principle Consultant to the Senate Agriculture and Water Resources Committee, said the bill language is similar to the language in Senator Machado's previous bill. He said there are three key issues: the issue of membership has been left to the Legislature; the issue of how much authority CALFED should have over programs of State and federal agencies; and how a State bill can ensure federal agency participation. He said the assumption is that federal legislation would be passed parallel to the State legislation.

Commissioner van Loben Sels asked about the cost of setting up the new Commission and suggested that it would be difficult to gain Delta support without information about the membership of the CALFED Commission; Mr. Walthall said the Commission could identify the categories of membership that would be acceptable on a proposed Commission and agreed that funding is a problem, especially this year.

Commissioner Macaulay said DWR looks forward to a more permanent governance structure, and suggested the Commission could start with general comments and submit more detailed comments on membership when future drafts of the bill are released. He added that he would abstain from participating in votes on the proposed legislation.

Commission Coglianese said she believed there is urgency about creating a new CALFED entity to provide accountability and efficiency. She said she still supports participation of local government on a Commission because local government works more closely with the public on a daily basis.

Senator Machado agreed there is an urgency associated with the legislation. He said the membership of the Commission was a problem two years ago, and pointed out there is no guarantee that the federal government will adopt CALFED legislation this year.

Chairman McCarty directed that discussion of the proposed legislation be directed to the CALFED Committee and that revised comments be submitted to the full Commission at the next meeting.

Commissioner Sanders asked that future amendments be forwarded to staff; Mr. Walthall agreed.

#### **14. Consideration and Possible Adoption of Comments on HR 3554 (Ose), Proposed Legislation to Transfer Federally-Owned Property in the Yolo Bypass to the State of California**

Chairman McCarty said the Commission will consider and possibly adopt comments on the proposed legislation to transfer Prospect Island and Little Holland Tract to the State of California.

Ms Aramburu reviewed the status of the two tracts under consideration for transfer to the State and reported on recent changes to West Delta congressional districts and meetings between U.S. Fish and Wildlife Service Staff and Congressman Mike Thompson. She said there could be new joint legislation in the future, and noted the Commission has not taken a position on federal legislation in the past, nor has the Commission differentiated between federal versus State ownership of land in the Delta in past correspondence regarding land ownership.

Commissioner Coglianese said she thinks the Commission does have an interest in this legislation and should provide comments.

Commissioner Curtis expressed concerns about the lack of delineation about which State agency would hold and manage the lands, and noted no funds for preparation of a management plan are included in the legislation.

Commissioner Brean suggested the State would have to determine which agency would be the appropriate entity to hold and manage the lands.

Chairman McCarty said he agrees the Commission should provide comments on the proposed legislation and suggested the CALFED Committee should provide input to the full Commission for consideration at the next Commission meeting.

Commissioner Wilson said he believes State ownership is preferable to federal ownership, but he would be willing to discuss it further with the CALFED Committee.

Commissioner Macaulay said he would likely abstain from taking a position on federal versus State ownership of the two tracts.



Chairman McCarty asked for public comments.

Steve Mello, Tyler Island, said in terms of fiscal impacts to Delta special districts, such as the North Delta Water Agency, the lands should be held by the State. He said the North Delta Water Agency has lost about 12% of its tax base due to acquisitions.

Commissioner Curtis commented in lieu fees are only paid by the Department of Fish and Game if the Legislature funds the in lieu program. He said there is no guarantee of payment of in lieu fees.

Chairman McCarty closed the public comment period.

On a motion by Chairman McCarty and a second by Commissioner Wilson, the matter was referred to the CALFED Committee; Commissioners Brean, Curtis and Macaulay abstained.

**15. Adjournment.** The meeting was adjourned at 8:45 p.m.